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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,487	03/09/2004	Yuichi Ueda	MM8844US	2312
22203	7590	08/26/2005	EXAMINER	
KUSNER & JAFFE HIGHLAND PLACE SUITE 310 6151 WILSON MILLS ROAD HIGHLAND HEIGHTS, OH 44143			ADAMS, GREGORY W	
			ART UNIT	PAPER NUMBER
			3652	

DATE MAILED: 08/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/796,487

Applicant(s)

UEDA, YUICHI

Examiner

Gregory W. Adams

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear whether applicants running truck body is formed from a cylinder, i.e. one piece construction, or whether the square cylinder is 4 pieces, i.e. top, bottom & sides, welded into a square. In addition, from FIGS. 3-4B applicants running truck body appears to be a cube not a square, i.e. a square enclosed by front end and back end.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ohgita et al. (US 5,450,929) (previously cited) in view of Miskin et al. (US 5,056,625) (previously cited).

With respect to claim 1, referring to FIGS. 1-14 Ohgita et al. disclose an article conveying apparatus 10 for conveying articles 3 between article storage sections 1, 2 comprising a running truck body 14, 11, 13 guided along a track 6, platform 16 with a

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transfer device 16 for transferring articles 3, rectangular pipe raising and lowering poles 12 having four flat sides (see FIG. 3 below) which allow a platform 16 to ascend and descend and connected perpendicularly to a running truck body longitudinal side 47. As shown in FIG. 1 (reproduced below) Ohgita discloses a rectangular running truck body. It is noted that Ohgita's running truck body 11 (or 39) travel horizontally.

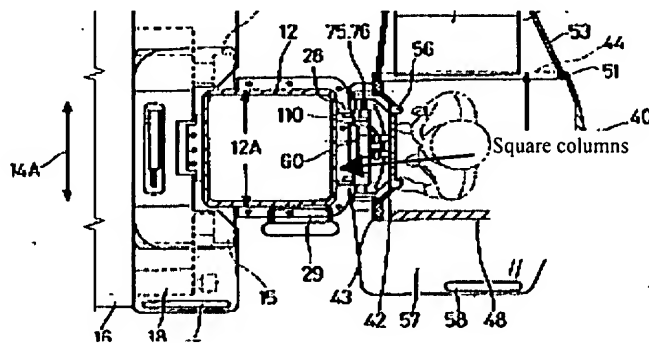
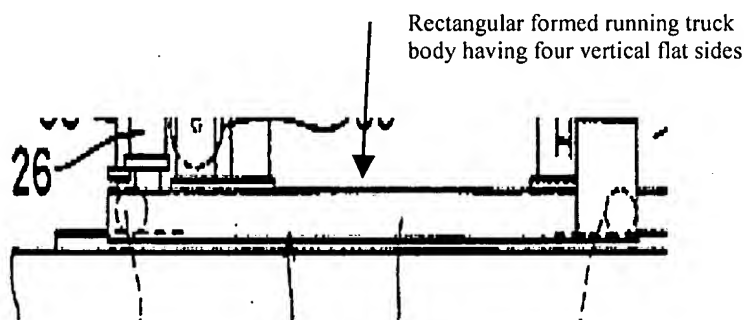


FIG. 3



Ohgita does not disclose mounting a mast to a truck running body side. Miskin et al. (US 5,056,625) disclose mounting a mast 4 to a running truck body 2 side because in a highly efficient storage facility where storage racks provide a maximum number of rack storage locations a low-profile storage and retrieval machine 2 is desirable so that the machine can access storage racks at a relatively low level and thereby make maximum use of the vertical space available. Col. 1, Ins. 13-46. Therefore, it would

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have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Ohgita et al. to mount the vertical poles to a running truck body, as per the teachings of Miskin et al., such that a running truck body will have a lower profile enabling access to relatively low level storage racks.

With respect to claim 2, referring to FIGS. 1-14 Ohgita et al. disclose an article conveying apparatus 10 for conveying articles 3 between article storage sections 1, 2 comprising a running truck body 14, 11, 13 that runs along a track 6, platform 16 with a transfer device 16 for transferring articles 3, an upper truck body 13 guided by an upper track 5 on a ceiling, raising and lowering poles 12 which guide and support a platform 16, a pole lower end 12 connected to a running truck body longitudinal side 47, and a pole upper end 12 connected to a upper truck body longitudinal side 13.

With respect to claim 3, referring to FIGS. 1-14 Ohgita et al. disclose an upper truck body 13 and a running truck body 14, 11, 13 on a same side of raising and lowering poles 12.

With respect to claim 4, referring to FIGS. 1-14 Ohgita et al. disclose a laterally central position of raising and lowering poles 12 is a laterally central position of an article conveying apparatus 10.

With respect to claim 5, referring to FIGS. 1-14 Ohgita et al. disclose an article conveying apparatus 10 for conveying articles 3 between article storage sections 1, 2 comprising a running truck body 14, 11, 13 guided along a track 6, platform 16 with a transfer device 16, raising and lowering poles 12 which allow a platform 16 to ascend and descend and connected perpendicularly to a running truck body longitudinal side

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47, a running truck body 14, 11, 13 having a longitudinal side 13 connected to a raising and lower poles lower end and supported by wheels 20, 21.

With respect to claim 6, referring to FIGS. 1-14 Ohgita et al. disclose an article conveying apparatus 10 for conveying articles 3 between article storage sections 1, 2 comprising a running truck body 14, 11, 13 guided along a track 6, platform 16 with a transfer device 16, raising and lowering poles 12 which allow a platform 16 to ascend and descend and connected perpendicularly to a running truck body longitudinal side 47, a pair of raising and lowering ropes 34 connected to a platform upper part 16 (col. 7, lns. 65-68) and a platform center 19, and a driving wheel 33 for feeding and winding ropes 34.

With respect to claim 7, referring to FIGS. 1-14 Ohgita et al. disclose a tension setting device 36 to tension ropes 34.

With respect to claim 8, referring to FIGS. 1-14 Ohgita et al. disclose a running drive device 25 drives driving wheels 33.

With respect to claim 9, referring to FIGS. 1-14 Ohgita et al. disclose a raising and lowering drive device 30 to raising and lower a platform 16 located at a running truck body latitudinal side.

With respect to claim 10, referring to FIGS. 1-14 Ohgita et al. disclose a control panel 39 with a swinging door faces in the longitudinal direction and located outside one raising and lower poles 12.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ohgita et al. (US 5,450,929) in view of Miskin et al. (US 5,056,625) and Benjamin (US

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4,286,911) (previously cited). Ohgita et al. disclose an article conveying apparatus with a contact surface 39 but does not disclose two contact surfaces, one each on a running truck body end. Referring to FIG. 2 Benjamin disclose an article conveying apparatus 10 having a contact surface 35 in contact with a shock absorber located at a track terminal end and provided at a longitudinal side 20 of each running truck body end 20. Benjamin teaches that when pressed inwardly contact surfaces 35 signal a track end 68, contact surface depression immediately disabling a driving force 70, 72, 81. Col. 6, Ins. 16-25. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the article conveying apparatus of Ohgita et al. to include a contact surface, as per the teachings of Benjamin, such that when pressed inwardly contact surfaces 35 signal a track end 68 and disable a driving force.

Response to Arguments

3. Applicant's arguments filed July 5, 2005 have been fully considered but they are not persuasive.

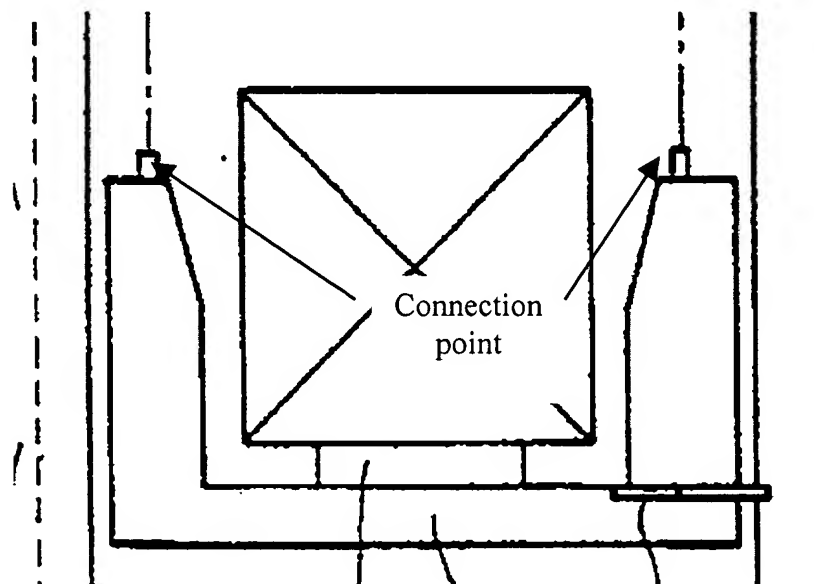
With respect to claims 1 & 2, applicant argues that Ohgita's running truck body is longer and that Ohgita's poles do not connect similarly. With respect to applicants amended claims the above 103(a) rejection reads on applicants claims as amended. Reference Miskin discloses an inventory apparatus which solves the space restriction problem. Although Miskin does not disclose dimensions, it would have been an obvious matter of design choice to dimension an inventory apparatus to comply with space restrictions as required by an inventory rack/shelving layout, since such a modification would have involved a mere change in the size of a component. A change in size is

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generally recognized as being within the level of ordinary skill in the art. Further, "vicinity" which is defined as "nearby, surrounding, or adjoining." Ohgita's poles 12, 12 are adjacent wheels 20 as shown in FIG.1.

With respect to claim 5, applicant argues that Ohgita does not disclose poles mounted to a vertical side of a running truck body. As amended, and as noted above, Ohgita in view of Miskin read on this limitation.

With respect to claim 6, applicant argues that Ohgita does not disclose a rope connected in the vicinity of a platform center. "Vicinity" is defined as "...a nearby, surrounding, or adjoining region;..." www.dictionary.com. Broadly construed, Ohgita discloses a rope attached to a platform as shown below in the vicinity of a center. Further, the connection point provides tension such that during lifting and rope tension is applied at the connection point.



Conclusion

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Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

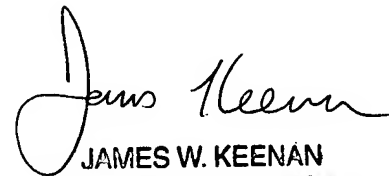
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory W. Adams whose telephone number is (571) 272-8101. The examiner can normally be reached on M-Th, 8:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

GWA



JAMES W. KEENAN
PRIMARY EXAMINER